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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,879	12/05/2003	Antonin A. Meibock	KORH-1-1001	9160

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EXAMINER	
RESTIFO, JEFFREY J	

ART UNIT	PAPER NUMBER
3618	

DATE MAILED: 07/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/729,879	MEIBOCK, ANTONIN A.	
	Examiner	Art Unit	
	Jeffrey J. Restifo	3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *4/28/06*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-26,29-50 and 52-129* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-26,29-50 and 52-129* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *08 December 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/28/06 has been entered.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1, 20-30, 38, 42, 48-50, 52-59, 101-103, and 107-115 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seltzer (US 5,462,295 A) and in further view of Labonte et al. (US 6,871,424 B2).

Seltzer discloses a skate boot comprising a base 19 with an upper face and lower face, and an upper support for a user's ankle having a first rigidity at a point near a user's ankle and a second rigidity at lower regions of the boot, as shown in figures 1-15 and recited in column 6, lines 52-67 and column 9, lines 5-18. Seltzer does not disclose the higher rigidity extending upward towards the ankle area of the boot.

Labonte et al. does disclose a skate with increase rigidity around the ankle portion 42 of a molded boot, as shown in figure 7. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the skate of Seltzer with the increase rigid ankle portion of Labonte et al. in order to provide protect and support for the lower foot area.

Seltzer does not disclose multiple layers of various rigidity. Labonte et al. does disclose a skate boot 14 able to be formed from layering composites or various rigidity and increased rigidity in the ankle portion 42 of the boot, as recited in column 4, lines 33-37. It would have been obvious to one having ordinary skill in the art at the time of the invention to have molded the boot of Seltzer with the layers as taught by Labonte et al. in order to increase rigidity in desired portions and increase flexure in other portions of the boot.

With respect to claims 24-30, the materials used to make the layers are not patentable unless they produce an unexpected result, therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to have made the layers of the boot of Seltzer, as modified by Meibock et al., of materials such as Kevlar, fiberglass, carbon-fiber, polyurethane, all of which are known in the art as being lightweight and impact resistant, in order to make the skate strong and lightweight.

With respect to method claims 107-115, the method recited in these claims is inherently performed in the manufacturing of the skate of Seltzer above.

3. Claims 2, 4-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seltzer and Labonte et al., as applied to claims 1 above, and further in view of Baikie (US 3,934,892 A).

Seltzer does not disclose inserts for attaching the skate mechanism. Baikie does disclose a skate with boot 25, skate mechanism 11, 12, 13, 15, mounting bracket 14, and threaded inserts 26, 27, encompassed by the circumferential edge of the base 24 for attaching the skate mechanism to the boot, as shown in figures 1-6. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the skate of Seltzer and Labonte et al. with the skate attachment of Baikie in order to remove and replace the skate mechanism. Threaded fasteners are well known in the art as an option to rivets.

With respect to claims 6, 8, and 9, reversing the male female connection or using rivets is well known in the art of fasteners and it would have been obvious to one having ordinary skill in the art at the time of the invention to have used any well known fastener in order to secure the skate mechanism of Baikie to the skate boot and base of Seltzer.

4. Claims 3, 10, and 13-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seltzer and Labonte et al., as applied to claims 1 and 42 above, and further in view of Spier (US 3,958,291 A).

Seltzer does not disclose a core section with foam material. Spier does disclose a skate comprising a boot comprising a base 20, 21 with shell 12 and core recess 18 filled with foam material and a plurality of recesses 14, as shown in figures 1-4. It would have been obvious to one having ordinary skill in the art at the time of the invention to

have provided the boot of Seltzer and Labonte et al. with the foam care of Spier in order to provide cushioning a dampening to the user foot.

5. Claims 43-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seltzer and Labonte et al., as applied to claim 42 above, and further in view of Baikie (US 3,934,892 A).

Neither Seltzer nor Labonte et al. disclose inserts for attaching the skate mechanism. Baikie does disclose a skate with boot 25, skate mechanism 11, 12, 13, 15, mounting bracket 14, and threaded inserts 26, 27, encompassed by the circumferential edge of the base 24 for attaching the skate mechanism to the boot, as shown in figures 1-6. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the skate of Seltzer as modified by Labonte et al. with the skate attachment of Baikie in order to remove and replace the skate mechanism. Examiner note: Threaded fasteners are well known in the art as an option to rivets.

6. Claims 31-40, 60-69, and 116-125 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seltzer, Labonte et al., and Meibock et al., as applied to claims 30, 59, and 89 respectively above, and further in view of Lin (US 6,775,932 B2).

With respect to claims 30-33, neither Seltzer nor Meibock et al. disclose a transparent layer with graphic design beneath. Lin does disclose a shoe with transparent layer 121 with graphic design 14, as shown in figure 2. It would have been obvious to one having ordinary skill in the art at the time of the invention to have

provided the skate of Seltzer and Meibock et al. with the graphic and transparent layer in order to add aesthetic appeal.

With respect to claims 34-37, the skate of Meibock et al. uses multiple layers of thickness, rigidity, and fiber concentration for changing the rigidity of the boot, as shown in figure 4.

With respect to claims 39 and 40, Meibock et al. discloses the base having a recess for receiving a toe cap 22, as shown in figure 3.

With respect to method claims 116-125, the method recited in these claims is inherently performed in the manufacturing of the skate of Seltzer above.

7. Claims 41, 70, and 126 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seltzer and Labonte et al., as applied to claims 1, 42, and 101 respectively above, and further in view of Olson et al. (US 5,171,033 A).

Seltzer does not disclose ventilation openings. Olsen et al. does disclose a skate 10 comprising ventilation openings 33, 61-68, 70, as shown in figures 1-5. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the skate of Seltzer with the vents of Olsen et al. in order to provide the user with ventilation to keep feet from sweating.

8. Claim 71-76, 80, 97, and 128 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seltzer (US 5,462,295 A) and in further view of Baikie (US 3,934,892 A) and Labonte et al. (US 6,871,424 B2).

Seltzer discloses an ice skate system comprising a boot 12, a base 19 with an upper face and lower face, and a contoured upper support for a user's ankle having a

first rigidity at a point near a user's ankle and a second rigidity at lower regions of the boot, as shown in figures 1-15 and recited in column 6, lines 52-67 and column 9, lines 5-18. Seltzer does not disclose the higher rigidity extending upward towards the ankle area of the boot. Labonte et al. does disclose a skate with increase rigidity around the ankle portion 42 of a molded boot, as shown in figure 7. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the skate of Seltzer with the increase rigid ankle portion of Labonte et al. in order to provide protect and support for the lower foot area.

Seltzer does not disclose inserts for attaching the skate mechanism. Baikie does disclose a skate with boot 25, skate mechanism 11, 12, 13, 15, mounting bracket 14, and threaded inserts 26, 27, encompassed by the circumferential edge of the base 24 for attaching the skate mechanism to the boot, as shown in figures 1-6. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the skate of Seltzer with the skate attachment of Baikie in order to remove and replace the skate mechanism. Boot linings are well known in the art and it would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the skate of Seltzer as modified by Baikie with a boot lining in order to cushion the user's foot.

With respect to claim 72, Seltzer discloses inserts 82 to engage the skate attachment 66, and integral lugs 32, 40, each with attachment points 38, 46 parallel with the base for receiving skate attachments, as shown in figures 1-9.

9. Claims 77-79 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seltzer, Labonte et al., and Baikie, as applied to claim 71 above, and further in view of Spier (US 3,958,291 A).

Neither Seltzer nor Baikie disclose a core section with foam material. Spier does disclose a skate comprising a boot comprising a base 20, 21 with core recess 12 filled with foam material and a plurality of recesses 14, as shown in figures 1-4. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the boot of Seltzer and Baikie with the foam care of Spier in order to provide cushioning a dampening to the user foot.

10. Claims 81-89 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seltzer as modified by Labonte et al. and Baikie, as applied to claim 71 above, and further in view of Meibock et al. (US 6,168,172 B1).

None of Seltzer, Labonte et al., or Baikie disclose multiple layers of various rigidity. Meibock et al. does disclose a skate boot 10 with a plurality of layers 44, 36, 20, 48, and hinge member 358, as shown in figures 1-14. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the boot of Seltzer and Baikie with the layers and hinge of Meibock et al. in order to increase cushioning and rigidity in desired portions and increase flexure in other portions of the boot.

With respect to claims 85-89, the materials used to make the layers are not patentable unless they produce an unexpected result, therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to have made

the layers of the boot of Seltzer and Baikie, as modified by Meibock et al., of materials such as Kevlar, fiberglass, carbon-fiber, polyurethane, all of which are known in the art as being lightweight and impact resistant, in order to make the skate strong and lightweight.

11. Claims 90-96, 98, 99 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seltzer, Labonte et al., Baikie, and Meibock et al., as applied to claim 89 above, and further in view of Lin (US 6,775,932 B2).

With respect to claims 90-92, none of Seltzer, Baikie, or Meibock et al. disclose a transparent layer with graphic design beneath. Lin does disclose a shoe with transparent layer 121 with graphic design 14, as shown in figure 2. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the skate of Seltzer, Baikie, and Meibock et al. with the graphic and transparent layer in order to add aesthetic appeal.

With respect to claims 93-96, the skate of Meibock et al. uses multiple layers of thickness, rigidity, and fiber concentration for changing the rigidity of the boot, as shown in figure 4.

With respect to claims 98 and 99, Meibock et al. discloses the base having a recess for receiving a toe cap 22, as shown in figure 3.

12. Claim 100 is rejected under 35 U.S.C. 103(a) as being unpatentable over Seltzer, Labonte et al., and Baikie, as applied to claim 71 above, and further in view of Olson et al. (US 5,171,033 A).

Neither Seltzer nor Baikie disclose ventilation openings. Olsen et al. does disclose a skate 10 comprising ventilation openings 33, 61-68, 70, as shown in figures 1-5. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the skate of Seltzer and Baikie with the vents of Olsen et al. in order to provide the user with ventilation to keep feet from sweating.

Response to Arguments

13. Applicant's arguments with respect to claims 1-129 have been considered but are moot in view of the new ground(s) of rejection. The applicant appears to be relying on the concept of increased rigidity in the ankle portion of the skate. This is considered by the examiner to be a well-known concept in the art of skates that is commonly achieved from increased layering and/or increased thickness of the skate body.

Conclusion

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey J. Restifo whose telephone number is (571) 272-6697. The examiner can normally be reached on M-F 10-7.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JJR

Jeffrey J Restifo
Primary Examiner
Art Unit 3618